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Federal Communications Commission
Office of Secretary

David Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, NW
Washington, D.C. 20554

Re: Ex Parte Presentation in CC Docket No. 94-54

Dear Mr. Furth:

As we have discussed with you and your staff, AT&T Wireless Services, Inc. ("AWS"), despite its initial opposition, now is convinced that the Commission must mandate that all CMRS providers offer automatic roaming to other CMRS providers that have equipped their customers with technically compatible handsets.

AWS, the largest wireless carrier in the country, is an incumbent cellular provider in 113 MSA/RSAs and a new entrant broadband PCS provider in 21 MTAs. AWS originally believed that marketplace forces were an adequate substitute for an automatic roaming mandate because CMRS providers have strong economic incentives to sell airtime to the customers of other carriers.¹ Allowing customers to roam automatically -- rather than subjecting them to cumbersome credit card roaming -- stimulates customers' use of their phones and increases the roaming revenues of the visited market. AWS therefore assumed that automatic roaming agreements between PCS and cellular carriers would be no more difficult to obtain than the ubiquitous arrangements that exist today among cellular providers. AWS underestimated, however, the degree to which certain incumbent cellular carriers are willing to sacrifice roaming revenue in order to impede the entrance of a new PCS competitor in their markets. An automatic roaming mandate is necessary to break this lockout.

AWS has announced plans to launch PCS service in several major markets by year end.

¹See Comments of AT&T Wireless Services, Inc., CC Docket No. 94-54, at 4 (filed October 4, 1996).

It also has announced plans to supply its customers with dual/mode dual/band handsets that will allow customers to move seamlessly from AWS' digital PCS systems to the analog systems of cellular carriers when the customer moves out of range of AWS' cell sites.² This configuration is intended to allow AWS' new PCS customers to obtain wide-area, in-market coverage by providing them with service on AWS' system and allowing them to roam on an incumbent cellular carrier's system in areas not yet reached by AWS' facilities. AirTouch Communications, Inc., SouthwestCo (a wholly owned subsidiary of Bell Atlantic-NYNEX Mobile), Ameritech and other incumbent cellular carriers have flatly refused to negotiate in-market roaming arrangements with AWS. Other carriers, such as Bell Atlantic-NYNEX Mobile, are willing to consider in-market roaming, but only at rates of \$3.00 per day and \$1.00 per minute, as compared with significantly lower rates for cellular roaming. The only justification provided by these carriers for their refusal to deal or their discriminatory rate structure is AWS' identity as an incoming, in-market competitor.

To curb this anticompetitive behavior, AWS urges the Commission to adopt an automatic roaming mandate that mirrors its existing CMRS resale rule.³ Under this rule, CMRS providers must allow automatic roaming by all other CMRS providers' customers for a period of five years from the date the last group of initial licenses for broadband PCS spectrum in the 1850-1910 and 1930-1990 MHz bands is awarded.⁴ This rule, like the existing CMRS resale rule, would require CMRS providers to allow the customers of other facilities-based competitors to roam in-market if they have technically compatible handsets. In addition, the Commission should state that the identity of a carrier as a facilities-based competitor in another carrier's market is not justification for denying it the same automatic roaming rates offered to out-of-market carriers. Without such a statement, AWS and other incoming PCS providers will be forced to file time-consuming and expensive formal complaints to stop overt discriminatory treatment of PCS roamers.

Absent the adoption of an automatic roaming rule, AWS will be forced to use other methods to break this lockout. For example, AWS has had to tell SouthwestCo, a subsidiary of Bell Atlantic-NYNEX Mobile that provides service in Phoenix and El Paso, that it will terminate all of its existing automatic roaming arrangements with SouthwestCo unless the company agrees to provide automatic roaming for AWS' PCS customers in those markets. Thus, without an agreement from SouthwestCo, none of AWS' cellular or PCS subscribers will have automatic roaming on SouthwestCo's systems, and none of SouthwestCo's customers will be able to roam

²"Dual mode" refers to the handset's ability to switch from a digital mode to an analog mode. "Dual band" refers to the handset's ability to switch from the 1900 MHz PCS band to 800 MHz cellular band.

³47 C.F.R. § 20.12 (1996).

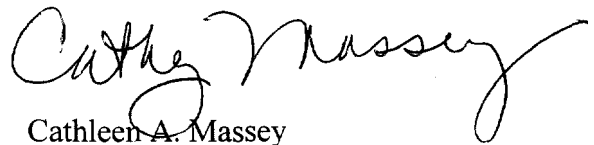
⁴By including a five-year sunset, the Commission will address any concern that an open-ended automatic roaming rule would discourage build-out of less populated portions of a PCS provider's market.

automatically on any of AWS' cellular or PCS systems. Although this strategy may be successful, it will degrade service for AWS' and SouthwestCo's customers, who will temporarily be without automatic roaming, and cost the carriers themselves significant roamer revenues. Even this option is not available to smaller PCS providers that lack a large pool of existing roamer dollars with which to negotiate. For them, the only way to break the lockout may be to siphon traffic through a carrier with an existing roamer contract or formally become an in-market reseller. Each of these options introduces inefficiencies that do not exist under a straightforward automatic roaming arrangement.⁵

AWS, which rarely if ever supports the promulgation of new regulations governing its operations, has nonetheless made the determination that the burden of an automatic roaming mandate is far outweighed by the harm that will be inflicted upon its PCS operations if incumbent cellular carriers are allowed to persist in their anticompetitive behavior. Now that the Commission has the facts before it, AWS urges it to adopt an automatic roaming mandate as soon as possible. Only quick action will prevent this lockout strategy from succeeding.

Please do not hesitate to contact me should you have questions or comments regarding this submission.

Sincerely,

A handwritten signature in black ink, appearing to read "Cathleen Massey", with a stylized flourish at the end.

Cathleen A. Massey

cc: Dan Phythyon
Rosalind Allen
Jeffery Steinberg
Jackie Chorney
Thomas Boasberg
James Coltharp
David Sidall
Suzanne Toller

⁵For example, if the carrier were to become a reseller in the portion of the market where it lacks facilities it would have to provide each customer with two numbers in its phone -- one number for facilities-based coverage and the other for reseller coverage. Customers would then have to switch their phones between these two numbers whenever they cross the line between the coverage areas. AWS believes that customers will find this solution unworkable.